

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JORGE LOUIS CUETO,

Respondent.

The Florida Bar File
No. 2000-71,354(11H)

Supreme Court Case
No. SC00-890

**THE FLORIDA BAR'S SUPPLEMENTAL RESPONSE
TO RESPONDENT'S MOTION FOR REHEARING**

This Court has directed the Bar to provide a supplemental response setting forth those factors and circumstances which address the seemingly disparate treatment of the Respondent from the other co-defendants. In addition to the Respondent, there were 10 attorneys who have been the subject of discipline. There are 16 additional pending cases. The discipline for the ten attorneys listed below resulted from either consent judgments or resignations. Virtually all of these Respondents had entered into guilty pleas to one count of Unlawful Compensation/Reward for Official Behavior in violation of Florida Statute 838.016.

Differing lengths of suspension in cases initiated by the Bar were determined primarily upon the basis of the number of offenses committed. Also considered was the period of time encompassed by the Respondents' misconduct. Some

additional factors will be identified below, where pertinent. The defendants, the discipline received, and the factual context follow.

A. EIGHTEEN MONTH SUSPENSIONS

Five of the Respondents entered into consent judgments which provided for eighteen month suspensions. The Bar’s investigation revealed evidence that these defendants/respondents were guilty of delivering a number of kickbacks, ranging from one to seven separate incidents. They were:

- | | | |
|----|-----------------------------|------------------------------|
| 1. | Mario Cabello, SC01-604 | 2 incidents |
| 2. | Mario Tacher, SC01-592 | 1 incident |
| 3. | Hilario Gonzalez, SC01-1200 | 5 - 7 ¹ incidents |
| 4. | Alexis Izquierdo, SC00-242 | 5 - 7 incidents |

Izquierdo had been out of law school for only one year and ceased the illegal activity voluntarily.

5. Herman Klemick, SC00-2214

The Bar initially attributed one case to Klemick. It was later learned that a few cases were involved. Klemick was the first defendant/respondent to enter into a consent judgment. He was very

¹ The range in numbers for Gonzalez and Izquierdo was provided in varying information provided by the State Attorney’s Office.

cooperative and mitigation was viewed favorably. It was apparent after the negotiated agreement was approved, that a few more cases could be attributed to Klemick².

The Bar's investigation of the foregoing five respondents provided evidence that their criminal activities were confined to 1995 and/or 1996.

**B. MORE THAN EIGHTEEN MONTHS,
BUT LESS THAN DISBARMENT.**

1. Charles Appel, SC00-2516. Appel received a two year suspension based upon his participation in ten to eleven cases occurring during 1995 to 1996 and again, in 1999.

2. Joseph Rodriguez, SC01-605 7 incidents

Unlike his co-defendants, Rodriguez testified that he also facilitated the same criminal misconduct of another attorney by acting as a courier between that attorney and Dade County employee[s]. Rodriguez received a three year suspension.

3. Alejandro Jose Vazquez, III 1 incident

The Bar filed a three count complaint against Vazquez who received a three year suspension. One count was based upon the "Risky

² Information obtained by The Florida Bar subsequent to Klemick's Consent Judgment revealed evidence of five incidents.

Business” arrest. One of the three counts, a solicitation count, was dropped. Respondent was extremely uncooperative in regard to a third count, which charged a trust account violation. His stonewalling resulted in a violation of Rule 4-8.4(d) (engaging in conduct in connection with the practice of law that is prejudicial to the administration of justice ...) of the Rules Regulating The Florida Bar. Vazquez received a three year suspension.

C. RESIGNATIONS

1. Abel Batista, SC00-1660.
2. Eusebio Fernandez, SC00-289.

These Respondents offered to submit disciplinary resignations. Five year resignations were presented to the Board of Governors who determined not to oppose same.

D. DISBARMENT

The Respondent in this case, Jorge Louis Cueto, was disbarred after a hearing before a Referee and an appeal. The Respondent in this case participated in at least thirty five instances of illegal kickbacks over a period of six years. He did not cease the misconduct until he was caught.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing was sent via Federal Express, tracking no. 809685808340, to Thomas D. Hall, Clerk, Supreme Court of Florida, Supreme Court Building, 500 South Duval Street, Tallahassee, Florida 32399-1927, and a true and correct copy was mailed to John A. Weiss, Attorney for Respondent, at 2937 Kerry Forrest Parkway, Suite B-2, Tallahassee, Florida 32308, and to John Anthony Boggs, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, on this _____ day of October, 2002.

WILLIAM MULLIGAN
Bar Counsel